

ASSEMBLY BILL

No. 163

Introduced by Assembly Member Mendoza

January 22, 2007

An act to amend Section 71601 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 163, as introduced, Mendoza. Trial courts: limited-term employees.

Existing law defines the term “trial court employee” for purposes of the Trial Court Employment Protection and Governance Act. In defining this term, the act provides that any temporary employee shall not be employed in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions.

This bill would additionally provide, in Los Angeles County, that any limited-term law clerk shall not be employed in the trial court for a period exceeding 180 calendar days. The bill would further provide that any such limited-term law clerk employed for more than 180 calendar days is a regular employee.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 71601 of the Government Code is
- 2 amended to read:
- 3 71601. For purposes of this chapter, the following definitions
- 4 shall apply:

1 (a) “Appointment” means the offer to, and acceptance by, a
2 person of a position in the trial court in accordance with this chapter
3 and the trial court’s personnel policies, procedures, and plans.

4 (b) “Employee organization” means either of the following:

5 (1) Any organization that includes trial court employees and
6 has as one of its primary purposes representing those employees
7 in their relations with that trial court.

8 (2) Any organization that seeks to represent trial court
9 employees in their relations with that trial court.

10 (c) “Hiring” means appointment as defined in subdivision (a).

11 (d) “Mediation” means effort by an impartial third party to assist
12 in reconciling a dispute regarding wages, hours, and other terms
13 and conditions of employment between representatives of the trial
14 court and the recognized employee organization or recognized
15 employee organizations through interpretation, suggestion, and
16 advice.

17 (e) “Meet and confer in good faith” means that a trial court or
18 representatives as it may designate, and representatives of
19 recognized employee organizations,—~~shall~~ have the mutual
20 obligation personally to meet and confer promptly upon request
21 by either party and continue for a reasonable period of time in
22 order to exchange freely information, opinions, and proposals, and
23 to endeavor to reach agreement on matters within the scope of
24 representation. The process—~~should~~ *shall* include *an* adequate
25 *amount of* time for the resolution of impasses where specific
26 procedures for resolution are contained in this chapter or in a local
27 rule, or when the procedures are utilized by mutual consent.

28 (f) “Personnel rules,” “personnel policies, procedures, and
29 plans,” and “rules and regulations” mean policies, procedures,
30 plans, rules, or regulations adopted by a trial court or its designee
31 pertaining to conditions of employment of trial court employees,
32 subject to meet and confer in good faith.

33 (g) “Promotion” means promotion within the trial court as
34 defined in the trial court’s personnel policies, procedures, and
35 plans, subject to meet and confer in good faith.

36 (h) “Recognized employee organization” means an employee
37 organization that has been formally acknowledged to represent
38 trial court employees by the county under Sections 3500 to 3510,
39 inclusive, prior to the implementation date of this chapter, or by
40 the trial court under Rules 2201 to 2210, inclusive, of the California

Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630) of this chapter.

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and judge pro tempore.

(j) “Transfer” means transfer within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) “Trial court” means a superior court ~~or a municipal court~~.

(l) “Trial court employee” means a person who is both of the following:

(1) Paid from the trial court’s budget, regardless of the funding source. For the purpose of this paragraph, “trial court’s budget” means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures, including, but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court’s right to control the manner and means of his or her work because of the trial court’s authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the “trial court” includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) (l) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of subdivision (l) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase “trial court employee” includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period

1 exceeding 180 calendar days, except that for court reporters in a
2 county of the first class, a trial court and a recognized employee
3 organization may provide otherwise by mutual agreement in a
4 memorandum of understanding or other agreement.

5 (2) *In Los Angeles County, any limited-term law clerk, whether*
6 *hired through an agency or not, shall not be employed in the trial*
7 *court for a period exceeding 180 calendar days. Any such*
8 *limited-term law clerk employed for more than 180 calendar days*
9 *is a regular employee.*

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